307; Mechanics' Ins. Co. *v.* Hoover Distilling Co., 182 Fed., 590, 105 C. C. A., 128, 31 L. R. A. (N. S.), 873.

"That the death of the insured was due to accidental means is too well settled by this court to require discussion. Bailey *v.* Interstate Cas. Co., 8 App. Div., 127, 40 N. Y., Supp., 513, affirmed 158 N. Y., 723, 53 N. E., 1123; Marchi *v.* Aetna Life Ins. Co., 140 App. Div., 901, 125 N. Y. Supp., 1130, affirmed 205 N. Y., 606, 98 N. E., 1108; Lewis *v.* Ocean Acct. & G. Corp., 224 N. Y., 18, 120 N. E., 56, 7 A. L. R., 1129. * * * The Health Law was not intended to provide protection to insurance companies. The purpose of the statute was to prevent the constant use of any habit-forming drug, and to protect 'habitual drug users,' therefore, it cannot be said as matter of law that the insured was guilty of negligence. Kelley *v.* N. Y. State Railways, 207 N. Y., 342, 100 N. E., 1115; Di Caprio *v.* N. Y. C. R. R. Co., 231 N. Y., 94, 131 N. E., 746."

Animals—Liability of Owner for Death Caused by Mad Dog.—In Clinkenbeard *v.* Reinert, 225 S. W. 667, the Supreme Court of Missouri held that the owner of a vicious dog, knowing its vicious propensities, who failed to kill it, was liable for death of a child bitten by it, though she would not have died if the dog had not been rabid, and though the owner had no knowledge of such condition.

In disposing of the cases relied upon by the defendant the court said: "On the vital point in this case we are cited to some three cases, first among them being Elliott *v.* Herz, 29 Mich. 202. The opinion there was by Cooley, J., and concurred in by Campbell, J. Graves, C. J., dissented in an opinion filed, and Christiancy, J., did not sit. So the opinion is by two of the then four members of that court. In the opinion Judge Cooley does use this language:

" 'The injury from the bite of a rabid dog must be classed with those from inevitable accident, which the law always leaves to rest where they chance to fall, because, as no one was in fault, there is no basis for an assessment of damages against any one.'

"The dog in question was mad and killed and injured some sheep. The action was under a Michigan statute, which made the owner of a dog liable without proof that such owner had knowledge of the vicious propensities of the dog. Under that statute the learned judge writing the majority opinion said that the statute did not cover the madness of the dog. The dissenting opinion holds to the contra. The whole case turns upon the statute and the construction to be placed upon it. There was nothing in the case to show that there was a common-law duty to either kill or restrain this particular dog for months prior to the injury and the madness of the dog, as we have in this case. In this case the knowledge of the vicious

propensities of the dog created a legal duty to kill the animal, or at least to keep him safely restrained. So the real question in this case was not before Judge Cooley.

"The next case relied upon by defendants is Legault *v.* Malacker, 166 Wis. 58, 163 N. W. 476, 1 A. L. R. 1109. This was an action by the parents for the death of child, which dies from the bite of a mad dog. The action was under a statute which the court concedes to be very similar to the statute in the Michigan case, supra. The opinion is by a divided court, and there is a vigorous dissent. The majority opinion rests upon the opinion of Cooley, J., in the Michigan case, and the minority opinion is bottomed in a way upon the opinion of Graves, C. J., in the Michigan case, supra. The statute permitted recovery without proof of knowledge upon the part of the owner that the dog was vicious. What we have said above about the Michigan case, as compared with the case at bar, applies with full force to this case from Wisconsin. It does not reach the case we have here. In it there was no evidence showing a duty upon the part of the owner of the dog to kill it, or at least restrain it from running at large, long prior to the appearance of rabies. So this case lends but little light.

"The next case relied upon is that of Van Etten *v.* Noyes, 128 App. Div. 406, 112 N. Y. Supp. 888. In reviewing the evidence the court specifically holds that there was not sufficient evidence to show that the owner had knowledge of vicious propensities upon the part of her dog. The court further indicates clearly that the dog became suddenly mad, and whilst thus affected with rabies bit plaintiff's cow. There is no pretense that defendant either knew of the vicious character of the dog prior to the date of its affliction with rabies or that the owner knew of the rabid condition of the dog prior to the injury to the cow. So this case sheds no more light upon our case and the point we have for decision than do the other two cases."

Attachment and Garnishment—Contents of Safety Deposit Boxes —In West Cache Sugar Co. *v.* Hendrickson, 190 Pac. 946, the Supreme Court of Utah held that the contents of safety deopsit boxes are subject to attachment or garnishment.

The court said in part: "It is true that, in 20 Cyc. 1022, it is said. 'According to the weight of authority, property or funds deposited with a safety deposit company cannot be reached by garnishment proceedings.' The text just quoted, however, was written more than fourteen years ago, and since then a number of courts of last re- ort have held the law to be otherwise under statutes the provisions of which are substantially the same as those of this state. If we keep in mind that the relationship existing between the lessor of a safety deposit box and that of his customer is one of bailee and